

Message Text

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ACTION AF-10

INFO OCT-01 ISO-00 NSCE-00 EB-08 SS-15 SSO-00 SP-02

/036 W

-----107013 051415Z /43

P 051127Z SEP 77

FM AMEMBASSY MONROVIA

TO SECSTATE WASHDC PRIORITY 6165

LIMITED OFFICIAL USE SECTION 1 OF 3 MONROVIA 6147

PASS TO NSC

E.O. 11652 N/A

TAGS: EINV, ENRG, LI

SUBJECT: LIBERIA REFINING COMPANY (LRC)

REF: (A) STATE 281429 (B) MONROVIA 5978

(C) MONROVIA 6043

1. SEEKING TO REINFORCE HIS VIEWS EXPRESSED TO THE CHARGE ON AUGUST 30, PRESIDENT TOLBERT SENT A LETTER DATED SEPTEMBER 2 TO THE EMBASSY ADDRESSED TO PRESIDENT CARTER AT THE WHITE HOUSE, REITERATING IN STRONG TERMS THE GOL'S POSITION ON ITS DISPUTE WITH SUN/DYNALECTRON. THE ORIGINAL LETTER IS BEING POUCHED TO THE DEPARTMENT (AF/W).

2. TEXT OF LETTER IS AS FOLLOWS:

QUOTE: SEPTEMBER 2, 1977

DEAR MR. PRESIDENT:

I HAVE CONSIDERED IT TIMELY TO ADDRESS YOU WITH A CANDOR WHICH IS NOT ONLY SINCERE AND FROM THE HEART,
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BUT ALSO EVOCATIVE OF THE GREAT VALUE WHICH THE GOVERNMENT AND PEOPLE OF LIBERIA AND MYSELF ATTACH TO FURTHER STRENGTHENING OF THE EXCELLENT AND CLOSE RELATIONS EXISTING BETWEEN US AND OUR TWO COUNTRIES. FOR THIS REASON, I FEEL IMPELLED TO BRING TO YOUR ATTENTION A MATTER WHICH SERIOUSLY DISTURBS AND DEEPLY DISTRESSES ME SINCE IT COULD AFFECT, IN SOME MANNER, THE HISTORIC TIES OF

AMITY, MUTUAL RESPECT AND COOPERATION WHICH HAVE SO LONG CHARACTERIZED RELATIONS BETWEEN OUR TWO NATIONS AND PEOPLES.

THE MATTER TO WHICH I REFER IS THE ATTEMPT BY SUN OIL COMPANY, THROUGH ITS SUBSIDIARY, SUN TRADING AND MARINE TRANSPORT COMPANY, IN CONJUNCTION WITH DYNALLECTRON CORPORATION TO TAKE SHEER ADVANTAGE OF THE LIBERIAN GOVERNMENT BY FALSELY ACCUSING US OF EXPROPRIATION OF THE LIBERIA REFINING COMPANY, AND THEREBY ENDEAVOURING TO BESMIRCH THE REPUTATION OF MY GOVERNMENT IN INTERNATIONAL CIRCLES.

SUN OIL COMPANY IS THE MAJORITY SHAREHOLDER AND DYNALLECTRON A MINORITY SHAREHOLDER IN THE LIBERIA REFINING COMPANY, WHICH HAS BEEN GRANTED THE RIGHT, BY OUR GOVERNMENT, TO OPERATE THE ONLY REFINERY IN THE COUNTRY. THE LIBERIA REFINING COMPANY, WHICH ALSO HAS A FEW LIBERIAN SHAREHOLDERS, IS THE ONLY ENTITY ALLOWED BY GOVERNMENT TO IMPORT REFINED PRODUCTS. THE COMPANY, WHICH IS EXCLUSIVELY MANAGED AND OPERATED BY SUN OIL, RECEIVED THESE RIGHTS IN 1969 UNDER A TWENTY-FIVE YEAR CONCESSION AGREEMENT WITH OUR GOVERNMENT. AT THE TERMINATION OF THE AGREEMENT OWNERSHIP OF THE REFINERY PASSES TO THE GOVERNMENT OF LIBERIA. EIGHT YEARS HAVE ELAPSED SINCE OPERATIONS AT THE REFINERY BEGAN.

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IN ORDER TO PROTECT THE INTERESTS OF CONSUMERS, THE LIBERIAN GOVERNMENT AND THE LIBERIA REFINING COMPANY AGREED TO A PRICING FORMULA DESIGNED TO KEEP DOMESTIC PRICES FOR PETROLEUM PRODUCTS REASONABLY IN LINE WITH WORLD MARKET PRICES WHILE ALLOWING THE COMPANY A FIXED MARGIN TO COVER ADMINISTRATIVE COSTS AND AN EQUITABLE LEVEL OF PROFIT.

IN 1975, SUN OIL INFORMED THE LIBERIAN GOVERNMENT OF ITS INTENTION TO DISPOSE OF ITS SHARES IN THE LIBERIA REFINING COMPANY. ACCORDING TO SUN OIL, THE PRIMARY INTERESTED PARTY WAS VENEZUELAN COMPANY, HIDECA, WHICH REQUIRED OF SUN OIL THAT IT OBTAIN THE LIBERIAN GOVERNMENT'S CONSENT TO THE SALE, EVEN THOUGH OUR GOVERNMENT DID NOT REQUIRE THAT ITS CONSENT BE GIVEN TO THE SALE. AT SUN OIL'S REQUEST, THERE WERE BRIEF MEETINGS BETWEEN REPRESENTATIVES OF HIDECA AND OF THE LIBERIAN GOVERNMENT, BUT WE DID NOT VETO THE SALE OR OTHERWISE DISAPPROVE OF IT. INDEED, AS FAR AS WE UNDERSTAND, NEGOTIATIONS BETWEEN THE PARTIES STALLED BEFORE THE GOVERNMENT HAD REACTED TO SUN OIL'S

REQUEST FOR OUR APPROVAL OF THE SALE TO HIDECA. HENCE, WE HAVE NEVER APPROVED NOR DISAPPROVED OF ANY BUYERS. I EMPHASIZE THIS POINT BECAUSE OF ITS IMPORTANT BEARING ON THE EXISTING SITUATION.

WITH THE APPARENT INABILITY OF SUN TO CONCLUDE A SALE OF ITS SHARES, THE LIBERIAN GOVERNMENT DECIDED, IN EARLY 1976, TO MAKE AN OFFER TO PURCHASE THE SHARES. WE MADE THIS DECISION SOLELY BECAUSE OF THE IMPORTANCE OF THE REFINERY TO OUR DOMESTIC ECONOMY, AND THE REALIZATION THAT IT MIGHT NOT BE IN OUR BEST INTEREST TO HAVE SUN OIL SELF-CONSTRAINED AS THE LEADING SHAREHOLDER AND MANAGER OF THE LIBERIA REFINING COMPANY IN AN UNDESIRABLE ROLE. OUR OFFER TO PURCHASE SUN OIL SHAPAS LIMITED OFFICIAL USE

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WAS NOT INTENDED, EXPLICITLY OR IMPLICITLY, TO SUGGEST THAT SUN OIL WAS PROHIBITED FROM SELLING TO OTHER PARTIES. INDEED, AS A GOVERNMENT WHICH BELIEVES IN, ADHERES TO, AND PRACTICES THE FREE ENTERPRISE SYSTEM, WE HAD NO DESIRE TO OWN AND OPERATE A FINERY, BUT PREFERRED TO HAVE COMPETENT PRIVATE PARTIES DO SO.

NEVERTHELESS, BECAUSE OF THE SURROUNDING CIRCUMSTANCES, AND IN ORDER TO BE ABLE TO MAKE AN OFFER TO SUN OIL WHICH WOULD BE REFLECTIVE OF THE ACTUAL VALUE OF THE SUN OIL SHARES, WE COMMISSIONED A TEAM OF COMPETENT INTERNATIONAL CONSULTANTS TO UNDERTAKE A COMPLETE SURVEY OF THE REFINERY. THEIR REPORT WAS ALARMING. IT POINTED OUT EXCESSIVE COSTS TWO TO THREE TIMES ABOVE NORMAL, AND NOTED THAT WITHOUT EXTENSIVE CORRECTIVE ACTION, THE REFINERY, IN LESS THAN EIGHT YEARS, HAD ALREADY REACHED 75 PERCENT OF ITS USEFUL LIFE.

IN CONFIRMATION OF THIS REPORT, THE REFINERY SHORTLY THEREAFTER HAD A SERIES OF BREAKDOWNS, THE LATEST OF WHICH OCCURRED ON CHRISTMAS DAY, 1976, AND IT HAS REMAINED SHUT DOWN SINCE THAT TIME. IT WAS DISCOVERED THAT JUST BEFORE THE FINAL BREAKDOWN OCCURRED, THE MANAGEMENT OF THE REFINERY HAD ALLOWED THE SUPPLY OF GASOLINE IN THE COUNTY TO DWINDLE TO AN APPROXIMATELY FORTY-EIGHT HOUR SUPPLY WITHOUT BRINGING THIS CRITICAL SITUATION TO THE ATTENTION OF THE GOVERNMENT.

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INFO OCT-01 ISO-00 NSCE-00 EB-08 SS-15 SSO-00 SP-02
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FM AMEMBASSY MONROVIA
TO SECSTATE WASHDC PRIORITY 6166

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SINCE THEN, THE NATION'S NEED FOR REFINED PETROLEUM PRODUCTS HAVE BEEN MET THROUGH PERIODIC IMPORTATION OF THESE PRODUCTS. THE LIBERIA REFINING COMPANY INITIALLY IMPORTED THESE PRODUCTS, ALTHOUGH IT ASSERTED, AND WE DID NOT DISPUTE THIS, THAT IT WAS NO LONGER LEGALLY REQUIRED TO DO SO. IN APRIL OF THIS YEAR, THE LIBERIA REFINING COMPANY NOTIFIED GOVERNMENT OF ITS INABILITY TO CONTINUE. SINCE THEN, OUR GOVERNMENT HAS BEEN FORCED TO CARRY OUT THIS FUNCTION OUT OF NECESSITY SO AS TO ENSURE A CONTINUING SUPPLY TO OUR NATION. THE LIBERIA REFINING COMPANY HAS, HOWEVER, USED ITS FACILITIES AND STAFF TO STORE AND DISTRIBUTE THESE PRODUCTS AT A MUTUALLY AGREED UPON FEE OF FOUR CENTS (\$0.04) PER GALLON.

BECAUSE OUR REPRESENTATIVES AND THOSE OF SUN OIL HAD BEEN UNABLE, DURING THIS PERIOD, TO AGREE UPON A REASONABLE PURCHASE PRICE FOR SUN OIL' SHARES, THE GOVERNMENT OFFERED TO BUY THE REFINERY ITSELF FROM SUN OIL AND OTHER SHAREHOLDERS ON APRIL 29, 1977. THE MINORITY SHAREHOLDERS WOULD, HOWEVER, BE GIVEN THE OPPORTUNITY TO PARTICIPATE, IN A MANNER PROPORTIONATE TO THEIR OWNERSHIP IN THE LIBERIA REFINING COMPANY, IN A NEW COMPANY WHICH WOULD BE ESTABLISHED TO OWN AND OPERATE THE REFINERY.

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OUR OFFER FOR THE REFINERY PLANT WAS \$1.5 MILLION, EXCLUDING INVENTORIES AND SPARE PARTS, WHICH WOULD BE SUBJECT TO FURTHER NEGOTIATIONS, IT TOOK INTO ACCOUNT THE FACT THAT THE CONDITION OF THE REFINERY PLANT HAD

DETERIORATED DUE TO THE SERIES OF ACCIDENTS AND FIRES WHICH HAD OCCURRED. AT THE TIME OF MAKING THAT OFFER, HOWEVER, THE GOVERNMENT REPRESENTATIVES MADE IT CLEAR THAT SUN OIL WAS FREE TO REJECT THE OFFER AND CONTINUE AS SHAREHOLDER AND MANAGER OF THE LIBERIA REFINING COMPANY. SUN OIL WAS ALSO FREE, AS IT HAS ALWAYS BEEN, TO DISPOSE OF ITS OWNERSHIP INTEREST IN SOME OTHER FASHION, OR TO THIRD PARTIES.

WE RECOGNIZE THAT THE LIBERIA REFINING COMPANY INCURRED CERTAIN LOSSES, PARTICULARLY DURING THE FIRST FOUR MONTHS OF THIS YEAR, DUE TO DELAYS IN THE ADJUSTMENT OF PRICES FOR REFINED PETROLEUM PRODUCTS. BUT THESE DELAYS WERE CAUSED BY ADMINISTRATIVE TECHNICALITIES, PARTICULARLY THOSE ARISING FROM CERTAIN ERRORS IN COMPUTATIONS SUBMITTED BY THE LIBERIA REFINING COMPANY ITSELF, AND FROM THE NEW SITUATION CREATED BY THE NECESSITY FOR IMPORTING PETROLEUM PRODUCTS AFTER THE BREAKDOWN OF THE REFINERY PLANT. IN ANY EVENT, OUR GOVERNMENT, AT THE TIME OF MAKING THE OFFER FOR PURCHASE, ALSO INFORMED SUN OIL AND THE LIBERIA REFINING COMPANY OF AN INCREASE IN PRICES INTENDED NOT ONLY TO PREVENT FUTURE LOSSES BUT ALSO TO ALLOW THE COMPANY TO RECOUP, OVER A TWELVE MONTH PERIOD, LOSSES WHICH IT HAD INCURRED.

TO OUR SHOCK AND SURPRISE, THE RESPONSE FROM SUN OIL IN WHICH DYNALECTRON JOINED, WAS TO ACCUSE OUR GOVERNMENT-LIMITED OFFICIAL USE

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MENT OF HAVING EXPROPRIATED THEIR INTEREST IN THE LIBERIA REFINING COMPANY. SUN OIL ALSO WITHDREW ALL MANAGEMENT SUPPORT FROM THE REFINERY. THESE FALSE ALLEGATIONS WERE GIVEN WIDE PUBLICITY IN THE AMERICAN PRESS, EVEN BEFORE THEY WERE RELAYED TO THE LIBERIAN GOVERNMENT.

WE HAVE, OF COURSE, VIGOROUSLY AND CATEGORICALLY DENIED THE CHARGES. THE FACTS SPEAK CLEARLY FOR THEMSELVES. OUR GOVERNMENT HAS NOT, EITHER DIRECTLY OR INDIRECTLY, MADE ANY MOVE OR TAKEN ANY ACTION WHICH WOULD CONSTITUTE OR IMPLY AN ACT OF EXPROPRIATION, NOR DOES IT INTEND TO DO ANY SUCH THING.

DESPITE THE DIFFICULTIES CREATED FOR OUR ECONOMY, THE GOVERNMENT OF LIBERIA HAS REFRAINED FROM TAKING ANY ACTION WHICH WOULD PREJUDICE THE RIGHTS OF THE LIBERIA REFINING COMPANY OR ITS SHAREHOLDERS OF THEIR PROPERTY.

OUR GOVERNMENT HAS CONSISTENTLY FOLLOWED A POLICY OF PROTECTING THE PROPERTY RIGHTS OF BOTH FOREIGN AND LIBERIAN INVESTORS, AND WE WILL CONTINUE TO DO SO. THIS HAS BEEN A FUNDAMENTAL AND ENDURING TENET TO WHICH WE HAVE BEEN AND ARE FULLY COMMITTED.

WE HAVE ALWAYS SOUGHT TO RESOLVE DIFFERENCES IN A CALM AND RATIONAL MANNER, BEING FULLY AWARE THAT ON MANY ISSUES THERE MUST BE FLEXIBILITY AND WILLINGNESS TO GIVE AND TAKE. HOWEVER, THE ATTITUDE DEMONSTRATED BY SUN OIL AND DYNALECTRON HAS CAUSED US TO WONDER WHETHER OR NOT THEY SHARE THIS VIEW. FOR EXAMPLY, EVER SINCE THEIR ALLEGATION THAT THEIR INTERESTS HAD BEEN EEPROPRIATED, WE HAVE REPEATEDLY INDICATED OUR READINESS TO MEET WITH THEM TO CONTINUE NEGOTIATIONS FOR THE PURCHASE OF THE REFINERY.
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WE HAVE DONE SO DESPITE THEIR PUBLICITY COMPAINGN IN THE AMERICAN PRESS, AND DESPITE THE INTEMPERATE LANGUAGE THEY HAVE USED WHEN ADDRESSING MEMBERS OF OUR GOVERNMENT. WE HAVE EVEN EMPLOYED A CONSULTANT RECOMMENDED BY ANOTHER AMERICAN OIL COMPANY, TO ASSIST IN PREPARING NEW OFFERS. SINCE THAT TIME, THROUGH OUR CONSULTANT, WH HAVE OFFERED TO PAY SOME \$6 MILLION FOR THE REFINERY, PLUS \$4 MILLION FOR THE CRUDE OIL IN STORAGE.

UNGORTUNATELY, OUR GOVERNMENT HAS NOT YET RECEIVED ANY REACTION FROM SUN OIL AND DYNALECTRON TO OUR OFFER. WHAT IS DISTURBING, HOWEVER, IS THAT WE HAVE RECEIVED - WHAT APPEARS TO BE - THREATS THROUGH THE AMERICAN EMBASSY IN MONROVIA, TO THE EFFECT THAT THERE IS "CONGRESSIONAL INTEREST", IN THIS MATTER, AND THAT IF NEGOTIATIONS ARE "UNPRODUCTIVE", SUCH INTEREST WILL GROW AND BE BROUGHT TO YOUR ATTENTION. THE US EMBASSY HERE HAS ALSO INFORMED US THAT THE "EXCELLENT REPUTATION" LIBERIA ENJOYS IN YOUR CONGRESS MIGHT BE "ADVERSELY AFFECTED IF THIS DISAGREEMENT IS PROLONGED".

THE NEGOTIATIONS WILL, INDEED, BE UNPRODUCTIVE AND THE DISAGREEMENT PROLONGED IF THESE AMERICAN INVESTORS CONTINUE OT INSIST THAT WE PAY TO THEM AN AMOUNT WHICH WE CONSIDER TO BE GROSSLY EXCESSIVE BY ANY OBJECTIVE CRITERIA. AFTER ALL, THEY REMAIN FREE TO SEEK OTHER BUYERS OR TO DISPOSE OF THEIR INTEREST AS THEY WISH.

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ACTION AF-10

INFO OCT-01 ISO-00 NSCE-00 EB-08 SS-15 SSO-00 SP-02
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TO SECSTATE WASHDC PRIORITY 6167

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WE CONSIDER THIS LATEST DEVELOPMENT, AND THE PRIOR
CHARGE OF EXPROPRIATION, TO BE ATTEMPTS BY THESE
INVESTORS TO PRESSURE US UNDER THE THREAT THAT THE
AMERICAN GOVERNMENT WOULD OTHERWISE TAKE CERTAIN MEASURES
AGAINST US. NATURALLY THESE TACTICS ARE UNACCEPTABLE TO
US AND WE DEFINITELY REJECT SUCH EFFORTS WHATEVER THE
COST TO US AND OUR ECONOMY.

NATIONS IN AFRICA, AND PARTICULARLY WE IN LIBERIA WHO
HAVE FOR SO LONG ENJOYED " SPECIAL TIES" OF FRIENDSHIP
WITH THE UNITED STATES, HAVE BEEN GREATLY HEARTENED BY
THE EMPHASIS WHICH YOU, MR. PRESIDENT, AND YOUR GOVERN-
MENT, HAVE GIVEN TO HUMAN RIGHTS. WE SHARE YOUR VIEW
THAT EACH INDIVIDUAL, WHOEVER HE MAY BE, IS ENTITLED
TO THE PROTECTION OF HIS BASIC, GOD-GIVEN RIGHTS OF
FREEDOM FROM INDIGNITY AND EXPLOITATION, AND FREEDOM
TO ENJOY THE BLESSINGS OF LIBERTY UNDER THE DEMOCRATIC
PROCESS. THE REAFFIRMATION ON YOUR PART OF THE
REVOLUTIONARY TENETS OF AMERICAN DEMOCRACY SHALL YET
PROVE, WE FERVENTLY HOPE, TO BE THE INSPIRATION OF,
AND THE CATALYST FOR, A WORLDWIDE MOVEMENT IN
SUPPORT OF INDIVIDUAL LIBERTIES AND THE PRESERVATION OF
HUMAN DIGNITY.

WITH FULL REALIZATION OF OUR ENTITLEMENT, EVEN THOUGH
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WE ARE A SMALL COUNTRY, WE MUST INSIST UPON THE

PRESERVATION OF OUR SOVEREIGN RIGHTS, AS ANALOGOUS TO HUMAN RIGHTS, BEARING UPON THE PRESENT CASE. WE THEREFORE CANNOT PERMIT SUN OIL COMPANY AND DYNALECTRON TO IMPOSE UPON US, A SOVEREIGN AND FRIENDLY GOVERNMENT, A SETTLEMENT WHICH IS MOST UNDESIRABLE AND ADJECTLY INEQUITABLE, UNDER THE THREAT THAT RELATIONS BETWEEN OUR TWO GOVERNMENTS MAY BE "ADVERSELY AFFECTED". IT IS NECESSARY THAT WE AFFIRM OUR RIGHTS AS A NATION AND PURSUE A COURSE WHICH, UNDER OUR CONVICTION, IS NOT ONLY JUST AND EQUITABLE BUT ALSO UPHOLDING OF OUR NATIONAL INTEREST AND DIGNITY.

I HAVE CONSIDERED IT APPROPRIATE TO BRING THIS VERY IMPORTANT MATTER DIRECTLY TO YOUR ATTENTION NOT NECESSARILY BECAUSE, IN AND OF ITSELF, IT WARRANTS THIS EXTRAORDINARY TREATMENT, BUT BECAUSE OF THE IMPLICATIONS ARISING FROM IT AND THE THREAT THAT DESPITE ITS PATENT INEQUITY, IT COULD ADVERSELY AFFECT THE OLD AND HISTORIC RELATIONS OF COOPERATION, TRUST AND "SPECIAL" AMITY WHICH HAPPILY HAVE SO LONG EXISTED BETWEEN THE UNITED STATES OF AMERICA AND LIBERIA, AND WHICH THE PEOPLE OF LIBERIA AND MYSELF DEEPLY CHERISH.

PLEASE ACCEPT, MR. PRESIDENT, THE RENEWED ASSURANCES OF MY HIGHEST CONSIDERATION AND ESTEEM, SINCERELY,
W.R. TOLBERT, JR. UNQUOTE
HORAN

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: REFINERIES
Control Number: n/a
Copy: SINGLE
Sent Date: 05-Sep-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977MONROV06147
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770321-0631
Format: TEL
From: MONROVIA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770997/aaaaddyk.tel
Line Count: 413
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: e632784d-c288-dd11-92da-001cc4696bcc
Office: ACTION AF
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 8
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 STATE 281429, 77 MONROVIA 5978, 77 MONROVIA 6043
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 08-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1385389
Secure: OPEN
Status: NATIVE
Subject: LIBERIA REFINING COMPANY (LRC)
TAGS: EINV, ENRG, LI, LRC
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/e632784d-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009